

NORTH OGDEN PLANNING COMMISSION

MEETING MINUTES

March 4, 2015

The North Ogden Planning Commission convened in a regular meeting on March 4, 2015 at 6:30 p.m. in the North Ogden City Municipal Building, 505 E. 2600 N. North Ogden, Utah. Notice of time, place and agenda of the meeting was furnished to each member of the Planning Commission, posted on the bulletin board at the municipal office and posted to the Utah State Website on February 25, 2015. Notice of the annual meeting schedule was published in the Standard-Examiner on December 21, 2014.

COMMISSIONERS:

Eric Thomas	Chairman
Don Waite	Vice-Chairman
Scott Barker	Commissioner
Blake Knight	Commissioner
Brandon Mason	Commissioner
Steven Prisbrey	Commissioner (excused)
Dee Russell	Commissioner

STAFF:

Jon Call	City Attorney
Stacie Cain	Deputy City Recorder
Gary Kerr	Building Official
Robert O. Scott	City Planner
Brian Smith	City Planner

VISITORS:

Lola Thompson	Lonnie Kendall	David K. Smith
Julie Anderson	Dale Anderson	Newell Marsden
Don Jensen	Natanya Jensen	Charles Schmalz
JoAnn Schmalz	Denise Dixon	David R. Dixon
Tiffany Turner	Chuck Liechty	Kam Petersen
John Hansen	Mitchell Fielding	

REGULAR MEETING

Chairman Thomas called the meeting to order at 6:32 p.m. Commissioner Prisbrey offered the invocation and led the audience in the Pledge of Allegiance.

CONSENT AGENDA

1. **CONSIDERATION TO APPROVE THE FEBRUARY 4, 2015 PLANNING COMMISSION MEETING MINUTES**
2. **CONSIDERATION TO APPROVE THE FEBRUARY 18, 2015 PLANNING COMMISSION MEETING MINUTES**

Commissioner Knight made a motion to approve the consent agenda. Vice-Chairman Waite seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Barker	abstained due to his absence at the meetings
Commissioner Knight	yes
Commissioner Mason	yes
Commissioner Russell	yes

The motion passed.

ACTIVE AGENDA

1. PUBLIC COMMENTS

Dale Anderson, 940 E. 2600 N., referenced item three pertaining to a development agreement for the Jack Fisher development. It appears many of the concerns raised by the neighbors of the property have been addressed by the development agreement, but he noticed that the date in the agreement is February 2015 and he asked if the agreement will actually be backdated or if that date will be changed to the date that the agreement is actually signed. Chairman Thomas stated he is sure the date will be signed to the execution date. Mr. Anderson added the agreement also includes a waiver of rights to a jury trial and he asked if that is to the City's advantage or the developer's advantage. He also referenced the sizes of the lots abutting 850 East, but noted one lot is missing from the development agreement and he is not sure if that was an oversight or intentional. He stated the agreement also talks about a contouring line or other reasonably defining method west of Rice Creek and notes that the buildable area for any lots within the site shall not exceed the Rice Creek line; that seems to be ambiguous and he wondered if there should be more clarity as to how the contouring line will be defined. He referenced section G of the agreement and noted it talks about dumping things such as grass over the fences of the properties in the development onto properties not contained in the development and he would like for that paragraph to say nothing should be put over the fence, not just grass. He displayed a piece of barbed wire and noted that a couple of weeks ago the landowner cut down all the fences along the north side of this property and he strung the wire through his horse pasture; barbed

wire will kill horses. He stated that is one reason he has asked for a fence to separate the agricultural property in the area from residential property. Consequently he has rebuilt his fence at his own expense and removed the old barbed wire. He then stated the land is being developed by the Chatelain family, who was also responsible for the Deer Hollow and Fawn Hollow developments to the east. He provided a map of those developments and circled two drains that drain water from those subdivisions and across his property; this is one of the reasons he has been asking for storm water mitigation and silt control in the area. He provided a picture of one of the pipes that runs into the hollow and he is pushing to ensure that the pipes are relocated and that silt control measures be taken. He referenced the covenants, conditions, and restrictions (CCRs) for the property and noted that he found the CCRs on the property owners to the east prohibit fencing in the hollow as well as removal of trees there. He would ask that the same restrictions be put on the subject property as well. He concluded he is more comfortable with the lot sizes being recommended at this point in time.

Tiffany Turner, 2673 N. 950 E., also addressed the Jack Fisher development and noted that after the last meeting during which the project was discussed someone was on the property cutting down trees, even though many concerns have been expressed regarding the need to maintain the foliage on the property. She stated she could not tell who was doing the work, but wondered if there are any legal ramifications for the action; the trees provide a habitat for the deer in the area. She stated she is concerned that the property could further deteriorate, but she is positive that the project will be a good thing in the area.

2. DISCUSSION AND/OR ACTION TO CONSIDER TAYLOR HILL SUBDIVISION, FINAL PLAT, LOCATED AT APPROXIMATELY 3250 N MOUNTAIN ROAD

A staff memo from City Planner Scott explained when the Planning Commission is acting as a land use authority, it is acting in an administrative capacity and has much less discretion. Examples of administrative applications are conditional use permits, design reviews, and subdivisions. Administrative applications must be approved by the Planning Commission if the application demonstrates compliance with the approval criteria. The applicant is requesting final approval of a 7 lot subdivision at approximately 3250 North Mountain Road known as Taylor Hill Subdivision. The 7 lot subdivision is on 2.83 acres and is located in the R-1-10 (5 lots) and R-1-12.5 (2 lots) zones. The R-1-10 zone requires a minimum lot size of 10,000 square feet on interior lots and 11,000 square feet on corner lots with a frontage requirement of 90 feet. The R-1-12.5 zone requires a minimum lot size of 12,500 square feet on interior lots and 13,500 square feet on corner lots with a frontage requirement of 100 feet. All of the proposed lots are interior lots. The property is currently vacant. This subdivision will provide a connecting link on Mountain Road between two existing subdivisions (Northcrest and Indian Cove). The property sits on a hillside with some fairly steep slopes.

The memo summarized staff and review agency comments regarding the application as follows: Past Comments Provided by Review Agency which needed to be addressed:

*A letter from Pineview Irrigation was provided, stating that the additional shares of water needed for irrigation have been obtained and all fees have been paid. The letter includes approval of the proposed irrigation utility plan.

There is a unique situation with two adjoining undevelopable parcels 1600440032 next to lot five and 1600490077 next to lot 1. It is unfortunate that these two parcels have not been included with this subdivision or other adjoining lots.

There is also a restriction on building size and fire flow limitations, i.e., any home constructed above 6,200 square feet will be required to have a sprinkling system.

The City technical review committee met on October 3, 2014 and provided comments. The comments were addressed as condition of final approval. The City Engineer has provided a plan review dated February 24, 2015. (See Exhibit C) If the applicant would like to pursue a payback agreement for the expanded width of Mountain Road, then he should approach the City Council with that request.

The memo offered the following summary of potential Planning Commission considerations:

- Does the proposed subdivision meet the requirements of the applicable City subdivision and Zoning Ordinances?
- Do the requirements from the referral agencies address the future development needs of this subdivision?

The proposed subdivision meets the requirements of applicable North Ogden City Ordinances and conforms to the North Ogden City General Plan. The General Plan map calls for this property to be developed as single family residential.

Staff recommends final approval of this application for the Taylor Hill Subdivision subject to the conditions from the reviewing agencies.

Mr. Scott reviewed his staff memo.

There was a brief general discussion about orphan properties in the area, with Mr. Scott noting it would be best for the applicant to address those issues.

Cam Peterson addressed the one remaining orphan property in the area of the subject property and noted he has been unable to execute a deal with the owner of that property and he has decided to move forward without it.

Commissioner Knight made a motion to grant final plat approval for the Taylor Hill Subdivision located at approximately 3250 N. Mountain Road subject to the conditions listed in the staff report. Commissioner Mason seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Barker	yes
Commissioner Knight	yes
Commissioner Mason	yes
Commissioner Russell	yes

The motion passed.

3. DISCUSSION AND/OR RECOMMENDATION TO CONSIDER A DEVELOPMENT AGREEMENT FOR PROPERTY, LOCATED AT APPROXIMATELY 2700 N 900 E

A staff memo from City Planner Scott explained when the Planning Commission is acting as a recommending body to the City Council, it is acting in a legislative capacity and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically the criteria for making a decision, related to a legislative matter, require compatibility with the general plan and existing codes. The Planning Commission conducted an initial hearing but due to an incomplete notice continued the public hearing until December 3, 2014 after allowing those in attendance to make comment. On December 3, 2014 the Planning Commission received additional input from surrounding neighbors. The neighbors requested that the Planning Commission consider recommending an R-1-12.5 zone. It was further discussed that through a development agreement that with certain conditions that an R-1-8 zone may be appropriate if the concerns raised by neighbors are addressed. On December 17, 2014 the Planning Commission considered this item. The applicant stipulated in the meeting that an R-1-10 zone is acceptable rather than pursue an R-1-8 zone with a development agreement. The City Council conducted a public hearing on January 27, 2015. The City Council upon hearing additional public comment tentatively approved the R-1-10 zone request; however the City Council desires that a development agreement accompany their final action. They are requesting the Planning Commission review and recommend a development agreement. The attached development agreement is before the Planning Commission for your review and recommendation. The following development agreement summary is listed below:

- Average Minimum Lot Size. The average minimum lot size shall be no less than 12,000 square feet.
- Chambers Parcel. This lot will be a minimum of 20,000 square feet.
- Lots Abutting 850 East. The proposed lots which abut the existing 850 East lots will be a minimum of 12,000 square feet.
- Side Yard for Manley Property South of Proposed 950 East and 850 East Intersection. The subdivision will be designed to make sure that the existing home will have a minimum of 20 feet since this lot will become a corner lot.
- Lot Size Restrictions:
 - Lots will be a minimum of 10,000 square feet
 - A maximum of 7 lots can be equal to 10,000 square feet
 - A minimum of 10 lots will be equal to or larger than 12,000 square feet
- Rice Creek Requirements.
 - Lots abutting Rice Creek will have a minimum buildable area of 2,000 square feet
 - A buildable contour line will be established that no development can occur past it
 - Rice Creek will remain "reasonably open" for wildlife by providing one or more access points to Rice Creek.
- CC&Rs. The Codes, Covenants, and Restrictions shall include a provision restricting dumping of grass on neighboring properties.

The General Plan calls for "All development in the community should be built on land suitable for the intended use." Additionally, "A variety of housing opportunities should be available to the citizens of the City. Quality residential development will be measured by design, maintenance, preservation of community resources, and open space."

The Zoning and Land-Use Policy includes guidelines for how zoning changes should be considered:

General Guidelines

1. A definite edge should be established between types of uses to protect the integrity of each use.

Staff comment: The applicant has provided a list of potential development agreement conditions that addresses lots sizes and buffers to Rice Creek.

2. Zoning should reflect the existing use of property to the largest extent possible, unless the area is in transition.

Staff comment: This area is in transition from agricultural to single family subdivisions.

3. Where possible, properties which face each other, across a local street, should be the same or similar zone. Collector and arterial roads may be sufficient buffers to warrant different zones.

Staff comment: This neighborhood has R-1-8 zoning on the periphery with RE-20 in the middle. The lots along 850 East are sized to be consistent with the existing RE-20 lots. New corner lots will have the necessary side yard setbacks.

4. Zoning boundaries should not cut across individual lots or developments (i.e., placing the lot in two separate zones). Illogical boundaries should be redrawn to follow property or established geographical lines.

Staff comment: The petition will have all properties in the same zone.

Residential Guidelines

8. Avoid isolating neighborhoods.

Staff comment: The roadway design for this subdivision has been modified to connect to 850 East. The street layout provides for connections to provide connectivity to other neighborhoods. The General Plan map calls for this property to be developed as single family residential, low density.

Both RE-20 and R-1-10 zones are allowed in this designation.

The memo offered the following summary of the potential Planning Commission considerations:

- Does the proposal development agreement address the issues sufficient enough to guide the upcoming subdivision review process?

The memo concluded this is a policy decision; if the Planning Commission determines that the proposed development agreement is appropriate; the Commission can find that the application is consistent with the North Ogden General Plan and recommend approval of the development agreement to the City Council.

Mr. Scott reviewed his staff memo.

Vice-Chairman Waite stated it seems as though all of Mr. Anderson's concerns have been addressed by the development agreement and will be more specifically addressed by the

development plan. Mr. Scott added that in the next step of the development process, each of the conditions of approval will need to be addressed by the applicant and that will be addressed in the staff report.

Commissioner Mason asked if the section of the agreement that provides for waiver of a jury trial is standard. City Attorney Call answered yes and noted oftentimes a jury trial can be more expensive than either party to the agreement would be able to recover. Either party would still have the right to a bench trial.

Vice-Chairman Waite noted the property is still owned by the Chatelain family and they can clean the property if they so desire; there are no restrictions upon the property until the development is approved and all agreements are signed. Mr. Call stated that is correct and noted he is not aware of any current restrictions on the property. He noted there are CCRs and other mechanisms in place to control certain aspects of the Deer Hollow and Fawn Hollow developments, but that is not yet the case for the Chatelain property. Commissioner Knight added that CCR documents are not enforced by the City. Mr. Call then added that the fact that lot 009 was left out of the development agreement is an oversight and it can be added back in before the agreement is executed.

Commissioner Knight made a motion to forward a positive recommendation to the City Council for approval of a development agreement for property located at approximately 2700 N. 900 E. with the addition of the building lot with serial number ending in 009 and to change the language regarding dumping over neighboring fences to prohibit dumping of any materials, not just grass clippings. Commissioner Mason seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Barker	yes
Commissioner Knight	yes
Commissioner Mason	yes
Commissioner Russell	yes

The motion passed.

4. PUBLIC HEARING TO RECEIVE COMMENTS ON PROPOSED AMENDMENTS TO ORDINANCE 11-7C-3, LEGACY PLANNED RESIDENTIAL UNIT DEVELOPMENT ZONE (PRUD), SITE DEVELOPMENT STANDARDS, TO REDUCE THE REAR SETBACK FROM 20 FEET TO 18 FEET

A memo from City Planner Scott explained when the Planning Commission is acting in a legislative capacity it has wide discretion. Examples of legislative actions are general plan,

zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically the criteria for making a decision, related to a legislative matter, require compatibility with the general plan and existing codes. The Planning Commission held a hearing on February 4, 2015 to consider amending the rear setback standards for the Legacy North PRUD zone. The applicant withdrew his application after residents in the Legacy North PRUD objected. A comment made at the hearing that if the rear setback reduction did not apply to lots adjacent to Legacy Phases I and II that the amendment would be acceptable. Based upon that comment the application has amended this application to only apply to lots in Phase IV that are not adjacent to the previous phases of the Legacy North PRUD. City Legal Counsel is recommending a different approach; grant an exception to reduce the rear setback by 10% for the main use or home provided that the combined distance between adjoining rear property structures remains 40 feet or greater. This language will have the same effect as the applicant's amendment. The likely properties where this exception would apply will be the Senior Center and the Smith's Marketplace. The setback difference will not impact the Smith's development or the Senior Center. The rezone is in anticipation of submitting a subdivision application that will be the last phase of the Legacy North project. The City in the past has adopted PRUD zoning for specific projects; this is no longer the case. In this instance the Legacy Planned Resident Unit Development zone applies to this specific project. Title 11-11-1 contains the purpose statement of Planned Residential Unit Developments. The purpose statement gives guidance when considering this request; Staff has underlined some of the pertinent language:

- A. The purpose of the planned residential unit development (PRUD) is to encourage better utilization of land, to develop a sense of community and to ensure compatibility with the surrounding neighborhoods. This is accomplished by allowing flexibility in the placement and design of buildings and infrastructure not ordinarily allowed in conventional zoning regulations. It allows flexibility in development standards for creative design and yet provides specific requirements to ensure surrounding properties and natural features are protected.
- B. A planned residential unit development is a residential development planned as a whole, single complex. It incorporates a definite development theme which includes the elements of usable open space, diversity of lot design, residential use and amenities, a well-planned circulation system, and attractive entrances as part of the design. The incorporation of one or two of these elements into a development does not make a PRUD. The combination of all of these elements is necessary for the development of a PRUD.
- C. An increase in housing density in order to make a project more economically profitable, is not an objective of a PRUD. The developer must calculate in his or her pro forma the viability of a proposed PRUD project given the regulatory structure required by this chapter. Reductions in lot sizes may be granted, as provided herein, but only when the reduction and/or more creative configuration of the lots results in better use of the land, the creation of usable common activity areas and improved aesthetics. These benefits should reasonably promise to enhance the enjoyment of life within the PRUD to a degree that would not otherwise be achievable without the lot size concessions. The Legacy Park North project has an established design theme and has met a specific market. It is a successful project. The applicant believes increasing the buildable area will further enhance the projects viability. Staff has researched whether or not there has been a reduced setback for any other PRUDs in North Ogden. The Lewis Peak PRUD has a reduced rear setback of 18 feet.

The General Plan calls for "All development in the community should be built on land suitable for the intended use."

Zoning Ordinance

Suggested improvements for the City of North Ogden Zoning Ordinance include the following.

- (1) Update the Zoning Ordinance to allow for a variety of current housing types.

Housing

A variety of housing opportunities should be available to the citizens of the City. Quality residential development will be measured by design, maintenance, preservation of community resources, and open space.

- (2) Implementation Goal: Housing for the aging population of the City should be encouraged through city incentives and senior citizen programs to attract retirement living facilities.

- (3) Implementation goal: Diverse housing alternative should be available for the present and future residents of the City.

The General Plan map calls for this property to be developed as single family residential, medium density. Planned Unit Developments are allowed in this designation.

The memo offered the following summary of potential Planning Commission considerations:

- Is the proposal consistent with the General Plan?
- Does the proposal meet the North Ogden Zoning ordinance standards?
- Is the Legacy Planned Residential Unit Development amendment to provide an exception to reduce the rear setback appropriate for this neighborhood? Will it impact adjoining properties?
- Is the flexibility of design sought by the applicant appropriate?

The memo concluded this is a policy decision; the General Plan calls for a diversity of housing types while maintaining quality development. If the Planning Commission determines that the amendment is appropriate to provide an exception for the rear setback of 10% where the combined distance between main buildings is 40 feet in the Legacy Planned Residential Unit Zone; the Commission can find that the application is consistent with the North Ogden General Plan and recommend approval to the City Council.

Mr. Scott reviewed his staff memo.

Commissioner Barker made a motion to open the public hearing. Commissioner Knight seconded the motion; all voted in favor.

The Public Hearing opened at 7:07 p.m.

There were no persons appearing to be heard.

Commissioner Knight made a motion to close the public hearing. Commissioner Barker seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Barker	yes
Commissioner Knight	yes
Commissioner Mason	yes
Commissioner Russell	yes

The motion passed.

The Public Hearing closed at 7:08 p.m.

5. DISCUSSION AND/OR RECOMMENDATION TO CONSIDER AMENDMENTS TO ORDINANCE 11-7C-3, LEGACY PLANNED RESIDENTIAL UNIT DEVELOPMENT ZONE (PRUD), SITE DEVELOPMENT STANDARDS, TO REDUCE THE REAR SETBACK FROM 20 FEET TO 18 FEET

The Planning Commission and staff had a brief discussion regarding the point in which a development application setbacks are considered by staff.

Vice-Chairman Waite noted that in his reading of the proposed ordinance amendments, he understood the 18 foot setback would apply to the homes that abut a trail or something other than another home. Mr. Scott stated that is correct and clarified that the proposed ordinance would provide for each lot to be eligible for a 10 percent reduction of the required setback, which equates to two feet and translates to an 18 foot setback. Mr. Call added that staff tried to craft the ordinance in a way that it will apply to all properties zoned in the same manner as the Legacy development, but in a way that it only affects the properties that do not abut a neighboring structure. Discussion then focused on the layout of the Legacy development and the fact that some of the lots actually include more property than owners understood they had. Chairman Thomas concluded he feels the ordinance addressed the issues that were raised regarding the development, without unfairly favoring or excluding certain properties.

Vice-Chairman Waite made a motion to forward a positive recommendation to the City Council to consider amendments to Ordinance 11-7C-3, Legacy Planned Residential Unit Development Zone (PRUD) as presented in the staff report. Commissioner Russell seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Barker	yes
Commissioner Knight	yes
Commissioner Mason	yes
Commissioner Russell	yes

The motion passed.

6. PUBLIC HEARING TO RECEIVE COMMENTS ON PROPOSED AMENDMENTS TO THE FRONT YARD SETBACK STANDARD FOR PLANNED RESIDENTIAL UNIT DEVELOPMENTS

A staff memo from City Planner Scott explained when the Planning Commission is acting in a legislative capacity it has wide discretion. Examples of legislative actions are general plan, zoning map, and land use text amendments. Legislative actions require that the Planning Commission give a recommendation to the City Council. Typically the criteria for making a decision, related to a legislative matter, require compatibility with the general plan and existing codes. Chapter 11 in the City Zoning ordinance is devoted to planned residential unit developments. The applicant is requesting that flexibility for front yard setback requirements be granted if specific design features are included in the development.

11-11-1 Purpose

The purpose statement for planned residential unit developments identifies that "flexibility in development standards for creative design" along with "specific requirements to ensure surrounding properties and natural features are protected."

A. The purpose of the planned residential unit development (PRUD) is to encourage better utilization of land, to develop a sense of community and to ensure compatibility with the surrounding neighborhoods. This is accomplished by allowing flexibility in the placement and design of buildings and infrastructure not ordinarily allowed in conventional zoning regulations. It allows flexibility in development standards for creative design and yet provides specific requirements to ensure surrounding properties and natural features are protected.

B. A planned residential unit development is a residential development planned as a whole, single complex. It incorporates a definite development theme which includes the elements of usable open space, diversity of lot design, residential use and amenities, a well-planned circulation system, and attractive entrances as part of the design. The incorporation of one or two (2) of these elements into a development does not make a PRUD. The combination of all of these elements is necessary for the development of a PRUD.

11-11-5: MINIMUM DEVELOPMENT REQUIREMENTS

A. General Regulations:

2. The minimum setback for all buildings (excluding fences) and parking in the periphery of the development shall be the front setback of the zone at those locations where the development abuts a street and a thirty foot (30') setback at those locations where development abuts other parcels of land. Notwithstanding the above provision, if the development has subdivided single family lots, which abut other parcels of land, the specific zone regulations shall apply for rear yard setbacks and accessory uses of the subdivided lots. The required setback area shall be landscaped.

The PRUD chapter identifies specific requirements for rear yard setbacks to adjacent properties in order to provide a sufficient buffer to those uses. It would seem logical that design standards within the project would be able to have some flexibility; however, this is not the case. The front

setback standards are to be maintained according to the underlying zone. In the case of the R-1, R-2, RCC, R-3, and R-4 zones front setbacks are required to be 30 feet. Front setbacks are 30 feet for interior lots; corner lots are allowed to have a 20 foot setback on one frontage as long as 30 feet is maintained on the other frontage. This sets up a circumstance where there are varying setbacks along most streets.

The request is to provide flexibility to allow 20 foot setbacks for the interior lots if the development provides upgraded design features, e.g., the building fronts face the street, the building fronts have the main entrance features toward the street, e.g., the front door, walk way to the sidewalk, porch, windows, shutters, etc., the building materials are brick and stucco with no aluminum or vinyl siding. With the buildings at 20 feet then the idea is to also make the development pedestrian friendly. The development should also have a landscape design that includes unique pedestrian lights and walking trails. The following language incorporates these ideas:

11-11-5(A)2

2 Front setbacks may be reduced by the planning commission if the project can demonstrate an upgraded design to include:

- a. The building fronts face the street.
- b. The building fronts have the main entrance features toward the street, e.g., the front door, walk way to the sidewalk, porch, windows, shutters, etc.
- c. Acceptable building materials are brick, rock, hardie board, and or stucco or other material approved by the planning commission; notwithstanding aluminum or vinyl siding are not allowed.
- d. The park strip and front yard have a landscape theme.
- e. The project is pedestrian friendly. In addition to the normal sidewalk design a walking trail system is included that has public access. The trail system and sidewalks may include pedestrian lights.

The applicant has submitted an e-mail with the justification for this request.

The General Plan calls for "All development in the community should be built on land suitable for the intended use." Additionally, Zoning Ordinance

Suggested improvements for the city of North Ogden Zoning Ordinance include the following.

(1) Update the Zoning Ordinance to allow for a variety of current housing types.

Housing

A variety of housing opportunities should be available to the citizens of the City. Quality residential development will be measured by design, maintenance, preservation of community resources, and open space.

(3) Implementation goal: Diverse housing alternative should be available for the present and future residents of the city.

The memo offered the following summary of Planning Commission considerations:

- Is the proposal consistent with the General Plan?
- Does the proposal meet the North Ogden Zoning ordinance standards?
- Is the flexibility of design for reduced front setbacks in planned unit developments with upgraded design features appropriate?

The memo concluded this is a policy decision; the General Plan calls for a diversity of housing types while maintaining quality development. If the Planning Commission determines that the amendment is appropriate to reduce the front setback from 30 feet to 20 feet in Planned Residential Unit Development projects if appropriate design standards are met; the Commission can find that the application is consistent with the North Ogden General Plan and recommend approval to the City Council.

Mr. Scott reviewed his staff memo.

Vice-Chairman Waite referenced allowed building materials and noted that the proposed ordinance only includes brick and stucco. Mr. Scott stated he may have inadvertently left additional building materials out of the proposed ordinance and he indicated all materials referenced in his staff report were intended to be in the ordinance. He noted brick, rock, hardie board, and stucco or other material approved by the Planning Commission should be included in the ordinance. Vice-Chairman Waite then noted that he likes the way the ordinance is crafted.

John Hansen referenced his project known as The Ranches and noted it includes 78 townhome units with a city street running through it; he reviewed the layout of the units and noted he is having trouble meeting setback requirements. Where townhomes actually front a street, there will be a 30 foot front setback, but that has not been possible for side yards facing the street and he is asking for a 20 foot setback on seven or eight lots in that situation. The setback exception is critical to the project, which he feels will be a nice addition to the City.

Commissioner Knight made a motion to open the public hearing. Vice-Chairman Waite seconded the motion; all voted in favor.

The Public Hearing opened at 7:31 p.m.

There were no persons appearing to be heard.

Commissioner Russell made a motion to close the public hearing. Commissioner Barker seconded the motion;

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Barker	yes
Commissioner Knight	yes
Commissioner Mason	yes
Commissioner Russell	yes

The motion passed.

The Public Hearing closed at 7:32 p.m.

7. DISCUSSION AND/OR RECOMMENDATION TO CONSIDER AMENDMENTS TO THE FRONT YARD SETBACK STANDARD FOR PLANNED RESIDENTIAL UNIT DEVELOPMENTS

Commissioner Barker made a motion to forward a positive recommendation to the City Council to consider amendments to the front yard setback standard for Planned Residential Unit Developments, with the change that the ordinance include the language from the staff report relative to building materials. Commissioner Knight seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Barker	yes
Commissioner Knight	yes
Commissioner Mason	yes
Commissioner Russell	yes

The motion passed.

8. PUBLIC COMMENTS

There were no public comments.

9. PLANNING COMMISSION/STAFF COMMENTS

Mr. Scott provided the Planning Commission with an update regarding the process to update the City's General Plan, with a brief focus on the meetings scheduled for the General Plan Steering Committee.

The Planning Commission briefly reviewed their meeting scheduled.

Mr. Scott provided the Planning Commission with an update regarding the recent actions of the City Council, specifically the discussion they recently had regarding the City's home occupation ordinance. He also provided the Planning Commission with an update regarding potential commercial projects on the horizon in the City, briefly focusing on the redevelopment of the old Smith's building.

The new City Planner, Brian Smith, then introduced himself and provided a brief synopsis of his professional background. The Planning Commission welcomed Mr. Smith to the City.

Mr. Scott noted that during the upcoming budget retreat there will be a discussion regarding replacing the Planning Commission laptops with tablets and he asked if all of the Commissioners are comfortable with that change, to which the Commission answered yes.

Chairman Thomas noted he spent the past week in Belize and it made him thankful for planning that has been utilized in the United States. He encouraged the other Planning Commissioners to be cognizant of planning efforts that have occurred in other regions as they travel.

10. ADJOURNMENT

Commissioner Russell made a motion to adjourn the meeting. Commissioner Barker seconded the motion.

Voting on the motion:

Chairman Thomas	yes
Vice-Chairman Waite	yes
Commissioner Barker	yes
Commissioner Knight	yes
Commissioner Mason	yes
Commissioner Russell	yes

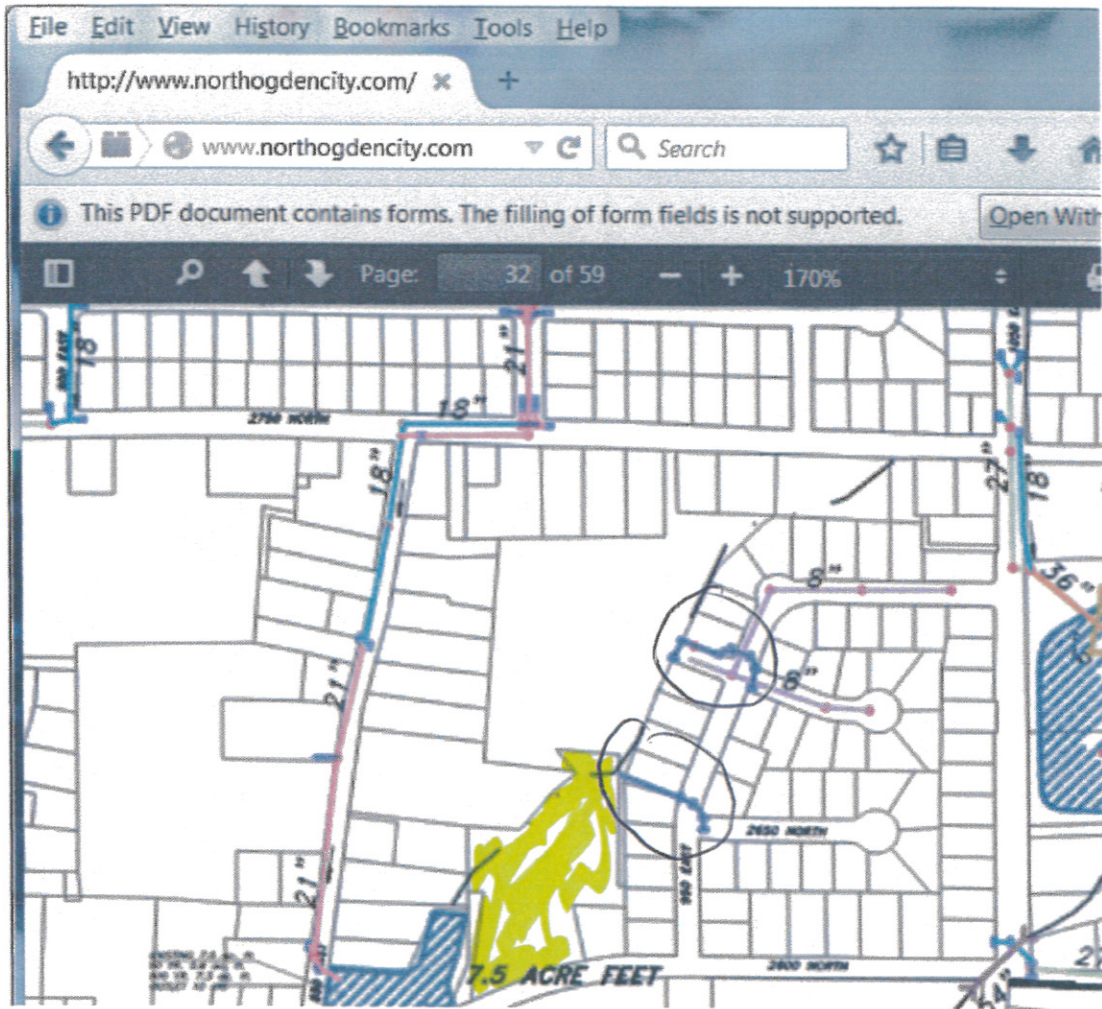
The motion passed.

The meeting adjourned at 7:47 p.m.

Planning Commission Chair

Stacie Cain,
Deputy City Recorder

Date approved



DECLARATION OF PROTECTIVE COVENANTS

FOR

FAWN HOLLOW PHASE 1

A RESIDENTIAL SUBDIVISION

IN

WEBER COUNTY, UTAH

IVORY NORTH,
A Utah joint venture

WHEN RECORDED RETURN TO:
Ivory North c/o Gary M. Wright
1544 N. Woodland Park Drive, Suite 300
Layton, Utah 84041

E: 1748538 BK2112 P61725
DOUG CROFTS, WEBER COUNTY RECORDER
25-JAN-01 325 PM FEE \$57.00 DEP JPH
REC FOR: IVORY.NORTH

17

**DECLARATION OF PROTECTIVE COVENANTS
FOR
FAWN HOLLOW PHASE 1**

This DECLARATION OF PROTECTIVE COVENANTS for FAWN HOLLOW PHASE NO. 1, (the "Declaration") is executed by IVORY NORTH, a Utah joint venture, of 1544 North Woodland Park Drive, Suite 300, Layton, Utah 84041 (the "Developer"), with reference to the following:

RECITALS

- A. Developer is the owner of certain property located in Weber County, Utah described more particularly on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").
- B. Developer has subdivided the Property into 30 Lots, to wit: Lots 1-30, inclusive.
- C. Developer has established this Declaration of Protective Covenants in order to enhance and protect the value and attractiveness of the Property.

COVENANTS AND USE RESTRICTIONS

NOW, THEREFORE, for the reasons recited above, the Developer hereby covenants, agrees and declares that the Property shall be subject to the following covenants, conditions and restrictions:

1. Definitions. The following definitions shall apply to this Declaration:

- a. "Builder" shall mean an Owner, developer or contractor who obtains a construction or occupancy permit for one or more Lots.
- b. "Committee" shall mean and refer to the Architectural Review Committee.
- c. "Dwelling" shall mean the detached single-family residence, place of habitation, abode or living unit constructed upon a Lot.
- d. "End of Developer Control Period" shall mean the time when the Developer has sold all of the Lots and Dwellings in the Subdivision.
- e. "Lot" or "Lots" shall mean the subdivided and recorded lot or lots within Property and where the context so requires any Dwelling constructed thereon.
- f. "Owner" or "Owners" shall mean the record owner or owners, whether one or more persons or entities, of a fee simple title to any Lot, excluding those having such interest merely as security for the performance of an obligation.
- g. "Property" shall mean the Subdivision.
- h. "Subdivision" shall mean FAWN HOLLOW PHASE NO. 1.

E# 1748538 BK2112 P61726

2. Use Restrictions and Nature of the Project. The Lots are subject to the following use restrictions which shall govern both the architecture of the Dwellings and the activities permitted therein:

- a. Residential Purposes. No Lot shall be used except for single family residential purposes.
- b. Zoning. All land use and buildings shall be in compliance with all zoning and land use ordinances as well as all regulations of the municipalities and agencies governing the Subdivision land use and buildings.
- c. Landscaping. All landscaping, grading and drainage of the land in each Lot shall be completed so as to comply with and not impair all flood control requirements of the Subdivision and the other Lots.
- d. Easements. Easements and rights of way for the installation and maintenance of utilities, drainage systems and facilities, and irrigation are reserved, as set forth herein and in the legal descriptions of the Property. Within these easements and rights of way, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in, on or about the easements and rights of way, or which may obstruct or retard the flow of water through the drainage channels in the easements and rights of way. The easement and right of way area of each Lot and all improvements within said area shall be maintained continuously by their Owners, excepting those improvements for which a public authority or utility company is expressly responsible.
- e. Walls, Fence and Hedges. No fence, wall, hedge, or other similar structure shall be erected in a required front yard to a height in excess of three (3) feet, nor shall any such structure be erected in any side or rear yard to a height in excess of six (6) feet. No fence, wall, hedge or other similar structure shall be erected in any front yard of any adjoining Lot to a height in excess of six (6) feet any nearer to the street than the minimum building setback line. Where a retaining wall may be topped by a fence, wall or hedge or similar structure six (6) feet in height. The only acceptable fencing materials are wood, masonry, vinyl, wrought iron, or chain link.
- f. Slope and Drainage Control. No structure, plant, improvement or other material may be placed or permitted to remain, or other activities undertaken which may damage or interfere with established Lot ratios, create erosion or sliding problems, or which may change the direction or flow of drainage channels, or obstruct or retard the flow of water through the channels. The slope control area of each Lot and all improvements therein shall be maintained continuously by the Owner of the Lot, excepting those improvements for which a public authority or utility company is expressly responsible. It shall be the responsibility of the Owner to see that his Lot conforms with and continues to conform with

any established grading and drainage plan that has previously been designed by the Developer.

- g. Nuisances. No noxious or offensive activity shall be carried on, in or about the Property, nor shall anything be done or permitted thereon which may be or may become an annoyance, disturbance, bother or nuisance to the neighborhood, or which might interfere with the right of other residents to the quiet and peaceful enjoyment of their property. No automobiles, vans, sport utility vehicles, trucks, campers, motor homes, trailers, boats, watercraft, recreational commercial, oversized or other vehicles shall be stored on streets or in front yards. Recreational, commercial, oversized or other motor vehicles may be stored on cement parking slabs in side yards so long as they are in running condition, regularly used, and currently licensed and registered. Activities which materially disturb or destroy the vegetation, wildlife, or air quality within the Property or which result in unreasonable levels of sound or light pollution.
 - h. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste (hereinafter referred to collectively as "Trash"). All Trash shall be kept at all times in sanitary containers. All trash containers shall be kept in sanitary condition. No Trash containers, unsightly material or objects are to be stored on any Lot in view of the general public, except on Trash pick-up days and then for a period not in excess of twenty-four (24) hours. Disposal of any oil, gas, or lubricants, and the storage or disposal of other hazardous materials anywhere within the Property is prohibited.
 - i. Temporary Structures. No structure of a temporary nature or character, including but not limited to any trailer, shack, shed, tent, garage, barn or other out-building shall be used on any Lot at any time as residence.
 - j. Street Lights. The developer shall install ornamental private streetlights on certain lots throughout the subdivision. Each streetlight shall become the personal property of the homeowner where the light is installed. Each streetlight will come with a photocell wherein the light will turn on at dark and turn off with daylight. It shall be the responsibility of homeowners where the light is installed to replace light bulbs and maintain the streetlight. Based upon the electricity costs at the date of these covenants, the cost for operating each streetlight should be approximately \$1.50 per month.
 - k. Lots 21-29 have a twenty-five (25') foot Drainage Easement at the rear of each lot to preserve the wooded hollow and natural drainage area located at the rear of each lot. This twenty-five (25') foot Drainage Easement prohibits the distributing of the natural vegetation within the easement including the installation of any fences within the easement.
5. Architectural Issues. Since aesthetics, the harmony of design, and quality of construction and materials throughout the Subdivision is important, all architectural designs, plans, specifications and construction must be (a) reviewed

and approved by the ARC or its designee and (b) consistent with the restrictions set forth herein governing the Subdivision.

- a. Architectural Review Committee (the "ARC"). Until the End of the Developer Control Period, the Developer has the sole right and exclusive authority to resolve all architectural issues and may, in its sole discretion, designate one or more persons from time to time to act on its behalf in reviewing applications hereunder as the ARC, which may consist of (a) a single individual, architect or engineer, or (b) a committee comprised of architects, engineers or other persons who may or may not be members of the Association. Any such delegation shall specify the scope of responsibilities delegated, and shall be subject to the irrevocable right of Developer to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and/or to veto any decision which Developer determines, in its sole discretion, to be inappropriate or inadvisable. So long as the Developer has the right to resolve all architectural issues, the jurisdiction of the foregoing entities shall be limited to such matters as are specifically delegated to it by the Developer. The initial ARC will be made up of Gary M. Wright, Eric Freebairn, and Kirt Harmon, who shall serve until such time as their successors are qualified and appointed.
- b. Transfer of Control of ARC. Upon the End of Developer Control Period, the Developer shall transfer the right to resolve all architectural issues and control of the ARC to the Association.
- c. Procedures for Approval of Plans and Specifications. Architectural designs, plans and specifications showing the nature, kind, shape, color, size, materials, and location of all proposed structures and improvements shall be submitted to the ARC for review and approval (or disapproval). In addition, information concerning irrigation systems, drainage, lighting, landscaping and other features of proposed construction shall be submitted as applicable. In reviewing each submission, the ARC may consider the design, harmony of external design with existing structures, the location in relation to surrounding structures, topography, finish grade and elevation, among other things. Decisions of the ARC may be based on purely aesthetic considerations. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary as committee members change over time. In the event the ARC fails to approve or disapprove any application within thirty (30) days after submission of all information and materials reasonably requested, the application shall be deemed approved. However, no Dwelling shall be constructed or altered unless it meets the following requirements:

- 1) Only single family residential Dwellings are allowed.
- 2) Height of any Dwelling shall not exceed two (2) stories above ground.

E# 1748538 BK2112 PG1729

- 3) Each Dwelling shall have a private garage for not less than two (2) automobiles.
 - 4) Exterior materials may include any combination of brick, stone, rock, maintenance-free stucco, or maintenance-free aluminum or vinyl siding.
 - 5) The front of each Dwelling may include any combination of brick, stone or rock, and maintenance-free stucco.
 - 6) Any detached accessory building must conform in design and materials with the primary residential Dwelling.
- d. Final Plans and Specifications and Working Drawings. The ARC may require, as a minimum, the following:
- 1) Plot plans to scale showing the entire site, building, garages, walks, drives, fence, carriage lights, retaining walls, with elevations of the existing and finished grade and contours including those at the outside corners of the buildings and at adjacent property lines and street fronts, and elevations of floors from a designated point on the street.
 - 2) Detailed floor plans.
 - 3) Detailed elevations, indicating all materials and showing existing and finished grades.
 - 4) Detailed sections, cross and longitudinal.
 - 5) Details of cornices, porches, windows, doors, garages, garden walls, steps, patios, fences, carriage lights, etc. Specifications shall give complete description of materials to be used on the exterior of the Dwelling.
- e. No Waiver of Future Approvals. The approval of the ARC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.
- f. Variance. The ARC may authorize variances from compliance with any of the architectural guidelines when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental considerations require, but only in accordance with its duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) stop the ARC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit or the terms of financing shall not be considered a hardship warranting a variance.

E# 1748538 BK2112 P61730

- g. **Limitation of Liability.** Neither the ARC, or any agent thereof, nor Developer or any of its employees, agents, or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised, or approved in accordance with the provisions of this Declaration, nor for any structural or other defects in any work done according to such plans and specifications. By accepting a deed or other document of conveyance to a Lot, each Owner agrees to and shall defend, indemnify, save and hold the Developer, the ARC, their agents, representatives, members and employees harmless from any and all loss, damage or liability they may suffer, including defense costs and attorney fees, as a result of any claims, demands, costs, awards or judgments arising out of their review or approval of architectural designs, plans and specifications.
 - h. **Enforcement.** Any construction, alteration, or other work done in violation of this Declaration shall be deemed to be nonconforming. Upon written request from the Developer or ARC, Owners shall, at their own cost and expense, remove such non-conforming construction, alteration, or other work and shall restore the land to substantially the same condition as existed prior to the non-conforming construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the Developer, ARC, or their designee, shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as existed prior to the construction, alteration or other work, without being deemed to be a trespasser. All costs incurred, together with the interest at the fixed rate of 1.5% per month, shall be treated as an Assessment.
 - i. **Contractors.** Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration may be excluded by the Developer or ARC from the Subdivision, subject to the notice and the opportunity to be heard. In the event of sanctions after notice and hearing, neither the Developer, Association, ARC, or their officers or directors shall be held liable to any person for exercising the rights granted by this Section.
 - j. **Standing.** In addition to the foregoing, the Developer acting for and in behalf of the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Section and the decisions of the ARC.
6. **Interpretation.** To the extent Utah law is consistent with this Declaration, such provisions shall supplement the terms hereof and are incorporated herein. The captions, which precede the Articles and Sections of this Declaration, are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or

E# 1748538 BK2112 P61731

unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

7. Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of ARC, all other signatories hereto, all parties who hereafter acquire any interest in a Lot, the Subdivision or the Property, and their respective grantees, transferees, heirs, devisees, personal representative, successors, and assigns. Each Owner or occupant of a Lot shall comply with, and all interests in all Lots shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, supplements, amendments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.
8. Enforcement and Right to Recover Attorney's Fees. Should the ARC or an aggrieved Owner be required to take action to enforce or construe the Declaration or any rules and regulations adopted from time to time, or to pursue any remedy provided hereunder or by applicable law, including a claim for injunctive relief or damages, whether such remedy is pursued by filing suit or otherwise, the prevailing party shall be entitled to recover his reasonable attorney's fees, costs and expenses which may arise or accrue.
9. Limitation of Liability. The protective covenants, conditions and restrictions set forth in this Declaration are established for the benefit of the Property and the Owners. Any damage, loss, claim or liability which might arise due to any decision, act, or failure to act of Developer or any of its members shall be exempt from any civil claim or action, including negligence, brought by any person owning or having an interest in any Lot.
10. Amendments. This Declaration may be amended upon the affirmative written approval of at least 67% of the Owners of the Lots. Any amendment shall be valid immediately upon recording of the document amending the Declaration in the office of the County Recorder of Weber County, Utah; provided, however, so long as the Developer shall own at least one (1) Lot in the Subdivision, no amendment shall be valid or enforceable without Developer's prior written consent.
11. Duration. The covenants and restrictions of this Declaration shall endure for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

E# 1748538 BK2112 P61732

Dated the day and year first above written.

DECLARANT:

IVORY NORTH, a joint venture

BY: GMW DEVELOPMENT, INC., Partner .

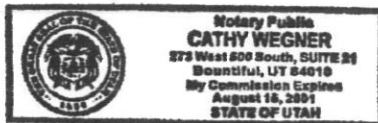
By:

Gary M. Wright
Title: Gary M. Wright, President

STATE OF UTAH)
)SS.
COUNTY OF WEBER)

On the 24 day of January, 2001, personally appeared before me Gary M. Wright, who by me being duly sworn, did say that he is the President of GMW DEVELOPMENT, INC., a Utah corporation, and that GMW DEVELOPMENT, INC. is a Partner of IVORY NORTH, a joint venture, and that the within and foregoing instrument was signed in behalf of said IVORY NORTH pursuant to the joint venture agreement and by authority of a resolution of the joint venture's, and said Gary M. Wright, duly acknowledged to me that IVORY NORTH executed the same.

Cathy Wegner
NOTARY PUBLIC
Residing At:



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BOUNDARY DESCRIPTION

A part of the Southeast Quarter of Section 28, Township 7 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey:

Beginning at a point 613.42 feet North 0°51'54" East along the Section line and 32.86 feet North 89°17'00" West from the Southeast corner of said Section; running thence two (2) courses along the North and West boundaries of Canyon Park Estates Phase 2, a subdivision in North Ogden City, Weber County, Utah as follows:

North 89°17'00" West 133.23 feet and 80.00 feet South to the Northeast Corner of Lot 8, Canyon Park Estates, a subdivision in North Ogden City, Weber County, Utah; thence South 0°52'39" West 23.00 feet along the West boundary of said Canyon Park Estates to the Northeast corner of Lot 16, Deer Hollow Subdivision Plat 2, in North Ogden City, Weber County, Utah; thence North 89°08'08" West 434.34 feet along the North boundary of said Deer Hollow Subdivision Plat 2 to the Easterly boundary of Deer Hollow Subdivision Plat 1 in North Ogden City, Weber County, Utah; thence four (4) courses along the Easterly and Northerly boundaries of said Deer Hollow Subdivision Plat 1 as follows: North 21°27'30" East 46.47 feet; North 68°32'30" West 105.00 feet; North 31°38'35" West 75.03 feet and North 68°32'30" West 140.00 feet; thence North 24°51'37" East 339.85 feet; thence North 44°20'17" East 164.20 feet; thence North 56°09'51" East 33.39 feet to the Southeast Corner of Lot 1 of Dale E. Chatelain and Kim E. Chatelain Subdivision, in North Ogden City, Weber County, Utah; thence South 87°38'27" East 357.57 feet; thence South 0°52'40" West 69.53 feet; thence South 89°19'51" East to the existing West right of way line of 1050 East Street; thence South 0°52'40" West 460.03 feet along said West right of way line to the point of beginning.

Contains 9.508 Acres

E# 1748538 BK2112 P61734

North Ogden city
Form: Sub 1

COVENANT AND AGREEMENT

KNOW ALL MEN BY THESE PRESENT:

1. The undersigned GHW Development, Inc being the record owners of the hereinafter described real property, situated within the corporate limits of the City of North Ogden, in Weber County, State of Utah, and which the said owners are now seeking to sub-divide in accordance with the provisions of the laws of the State of Utah and the ordinances of said North Ogden City, in such case made and provided, said undersigned owners being hereinafter called "the Sub-dividers", for and in consideration of the approval of said sub-division plat and dedication as heretofore submitted to said North Ogden City Corporation, and to guarantee the installation of the special improvements required by the ordinances of said North Ogden City, do hereby covenant and agree with said North Ogden City Corporation, that the said sub-dividers will not lease nor convey any of the real property hereinafter described to any third person whomsoever without the said sub-divider having first, as a condition precedent thereto, either:

(1) within two years from the date hereof installed and fully paid for all of the special improvements specified in the applicable ordinances of North Ogden City, in full compliance with the plans and specifications approved by the City Engineer of said City for said subdivision and under his inspection and to his satisfaction in the streets fronting on the land so to be conveyed or in easements for such improvements or utilities dedicated to the public use for such purpose, and thence along the streets or utility easements aforesaid in the case of sewer and water utilities to a connection with the nearest existing outfall or supply, as the case may be, and in the case of other improvements to a connection with the existing improvements of the same kind, or to the boundary of the said hereinafter described real property nearest to the said existing improvements, whichever is closer; or

(2) filed with the North Ogden City Recorder, or deposited with a bank duly authorized to do business in the State of Utah, a good and sufficient corporate surety bond issued by a corporate surety duly authorized to execute such bonds in the State of Utah, in an amount not less than the cost of all of such special improvements not then installed, plus ten percent (10%) as estimated by the City Engineer, which bond shall be conditioned upon and shall guarantee the installation of all such improvements within such period of two years from the date hereof; and which said bond shall be approved by the City Council and by the City attorney; or

(3) deposit with the City Recorder, or with some bank or approved Escrow agent, under escrow agreement approved by the City Council & City Attorney, lawful money of the United States in a sum not less than the said cost as estimated by the City Engineer to complete all special improvements, not then installed, plus ten percent (10%), within such period of two years from the date hereof. All sums so deposited in escrows shall be held to secure the construction and installation of the improvements aforesaid and shall be applied from time to time in payment of the cost and expenses incident to the installation and construction thereof upon the deposit of the written certificate of the City Engineer, approved by the City Council, that the improvements or substantial portion thereof have been properly completed, specifying the cost of the completed portion thereof to be paid out of such escrow funds, and specifying the names of the persons or firms to whom such money is due for the work and materials incident to such installation of construction. When the City Engineer, with the approval the City Council, as aforesaid, shall certify that all of the improvements

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DOUG CROFTS, WEBER COUNTY RECORDER
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North Ogden City
Form: Sub 1
Page 2

have been paid in full, and have been completed according to specifications, any surplus then remaining in the hands of the City Recorder, or Escrow Agent, as the case may be, less a sum equal to 10% of the original amount escrowed (retained for one year guarantee period in accordance with the Developer's Agreement with North Ogden City Corporation), shall be repaid by the escrow holder to the said subdivider, or his assigns."

2. The said sub-dividers do hereby give and grant unto said North Ogden City Corporation a lien on the said lands hereinafter described to secure the installation of all of the aforesaid improvements as hereinabove specified, together with all cost, including a reasonable attorney's fee, which said North Ogden City may reasonably incur in enforcing any of the terms and provisions hereof. The City shall, from time to time, by the City Council release of record this lien and covenant on such lots and parcels of land which this covenant has been fully performed either by the installation of the improvements and payment therefor, or by the deposit of a bond as aforesaid, or by deposit of funds in escrow, as aforesaid, to secure such installation and payment.

3. This covenant shall be deemed to be a covenant running with the lands for the benefit of said North Ogden City Corporation and its citizens.

4. This agreement shall be recorded in the office of the Weber County Recorder.

5. The lands referred to herein are situated in Weber County, Utah, and are particularly described as follows, to-wit:

FAWN HOLLOW - PHASE I SUBDIVISION

IT WITNESS WHEREOF the undersigned sub-divider (s) hereunto set this hand this 17th day of January, 192001.

GHW Development, Inc
By: Dan M. Wright
President

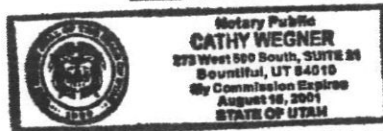
State of Utah,)
County of Weber) ss.

On this 17 day of Jan., 192001, personally appeared Dan M. Wright, President of
before me GHW Development, Inc. the signer (s) of the above instrument,
and duly acknowledged to me that (t)he (y) executed the same.

Cathy Wegner
Notary Public residing at

My commission expires:

8-15-01



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